

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

**HCP No. 71/2025**

**Date of Pronouncement: 13.11.2025**

Uploaded on: 18.11.2025

Happy Choudhary Aged 27 years  
Son of Shri Darshan Lal,  
R/o Hakkal, Tehsil & District Jammu  
Presently lodged in District Jail,  
Bhaderwah, District Doda.

.....Appellant(s)/Petitioner(s)

Through: Mr. Gagan Oswal, Advocate

**Vs**

1. Union Territory of Jammu & Kashmir Through  
Principal Secretary,  
Home Department, Civil Sectt., Jammu/Srinagar.
2. District Magistrate, Jammu.
3. Superintendent, District Jail, Bhaderwah, District Doda.

..... Respondent(s)

Through: Mr. Pawan Dev Singh, Dy. AG.

**Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE**

**ORDER(ORAL)**

1. Petitioner, in the instant petition filed under Article 226 of the Constitution of India, is seeking quashing of detention order No. PSA 03 of 2025 dated 19.03.2025 (*for short*, "**impugned order**") passed by District Magistrate, Jammu–respondent No. 2 herein (*for short*, "**detaining authority**"), in terms of the provisions of Section 8 of the J&K Public Safety Act, 1978 (*for short*, "**the Act of 1978**").
2. The impugned order has been challenged by the petitioner on multiple grounds urged in the petition.
3. **Counter affidavit** has been filed to the petition by the respondents opposing the same on the grounds that upon the subjective satisfaction drawn by the detaining authority qua the prejudicial activities of the petitioner, preventive

detention was ordered after observing the procedural safeguards provided under law and the Constitution and that the petitioner, being a notorious and hardcore criminal has been involved in five FIR's and that the substantive law has proved insufficient to deter the petitioner from continuing with his criminal activities being prejudicial to the public order, as such, the petitioner came to be detained under the provisions of the Act of 1978 and that the detention order came to be executed through PSI Karnail Singh PID No. EX1196439 of Police Station Satwari on 20.03.2025, who delivered and handed over the grounds of detention, the warrant of detention, dossier, FIRs and all other documents to the petitioner, as also informed him that he can make a representation against his detention and that the grounds of detention, as also the order of detention were read over and explained to him in Dogri/Hindi, which the petitioner fully understood and in lieu thereof subscribed his signatures thereto on the execution report and that since the petitioner was found to be a threat to the maintenance of public order, the petitioner, consequently on the basis of the dossier furnished to the detaining authority by the sponsoring agency, came to be detained under preventive law after fulfilling and complying with all procedural, statutory and constitutional requirements.

**Heard counsel for the parties and perused the detention record produced by the counsel for the respondents.**

4. While making his submissions, the counsel for the petitioner, notwithstanding multiple grounds of challenge urged in the petition, confined the challenge to the impugned order to the following grounds:-

- (i) That the petitioner was not personally furnished the documents/material upon by the detaining authority but the said documents and material were furnished to his family.
- (ii) That the petitioner was not informed that he can make a representation against his detention.
- (iii) That the impugned order is based on stale FIR's relied upon in the grounds of detention.
- (iv) That no subjective satisfaction has been derived by the detaining authority while detaining the petitioner under preventive law and that even though the bail obtained by the petitioner in FIR No. 207/2024 has been sought to be cancelled by the prosecution before the competent Court, yet not awaiting for the orders therefrom the said Court, therein the said cancellation of bail application, the respondents detained the petitioner under preventive law without any lawful justification.

5. On the contrary, the counsel for the respondents in response to the aforesaid grounds urged by the counsel for the petitioner would reiterate the averments and the pleas made and raised in the counter affidavit filed to the petition and would insist for dismissal of the petition.
6. Before proceeding to advert to the aforesaid rival submissions of the appearing counsel for the parties, it is pertinent to mention here that the concept of preventive detention is not to punish a person for something he has done, but to prevent him from doing it and the basis of the concept of preventive detention is the subjective satisfaction of the executive of a reasonable probability of the detainee acting in a manner similar to his past acts and to prevent him by detention from doing so in future. It is also settled law that preventive detention is an anticipatory measure resorted to when the executive is convinced that such detention is necessary to prevent a person detained from acting in any manner prejudicial to the objects specified in the Act of 1978.

Law is also no more *res-integra* that an order of preventive detention can be made before, during or after the criminal prosecution, inasmuch as, it can be made with or without prosecution and in anticipation or after discharge or

even acquittal of a person, thus, suggesting that pendency of prosecution is no bar to the passing of an order of detention, so is also not an order of preventive detention a bar to any prosecution.

7. Keeping in mind the aforesaid fundamental principles of law of preventive detention and reverting back to the case in hand, the aforesaid first two grounds urged by the counsel for the petitioner required this Court to examine the detention record produced by the counsel for the respondents and a bare perusal of which reveals that the petitioner has been furnished all the documents be it the grounds of detention, order of detention, dossier, copy of FIR's etc. at the time of execution of the detention order and also stands informed by the executing officer about his right of making representation against his detention. Record also reveals that the petitioner seemingly has in lieu of the receipt of the aforesaid documents as also for having been informed about his right of making a representation. inasmuch as, for having the grounds and order of detention read over and explained to him in Dogri and Hindi language, subscribed his signatures on the execution report in presence of the executing officer. Thus, the aforesaid grounds urged by the counsel for the petitioner are found to be factually incorrect, misconceived and palpably wrong.

8. Insofar as the aforesaid third ground urged by the counsel for the petitioner is concerned, perusal of the record available on the file inasmuch as the detention record produced by the counsel for the respondents reveals that the detaining authority seemingly has shown its awareness about the involvement of the petitioner in multiple FIR's as also in the recent FIR bearing No. 207/2024 registered with Police Station Bishnah and besides has also been

alive about the petitioner being on bail there in the said FIR as having been informed by the sponsoring agency that an application stands filed thereto for cancellation of said bail before the Court which had granted bail to the petitioner.

A closer examination of the detention record produced by the counsel for the respondents containing the said application for cancellation of bail also reveals that the petitioner along with other accused persons involved in the FIR in question are continuously involved in unlawful activities, thus, necessitating the cancellation of bail.

Having regard to the aforesaid position obtaining in the matter, the aforesaid ground urged by the counsel for the petitioner that the detention impugned order is based on stale FIRs is found to be grossly misconceived.

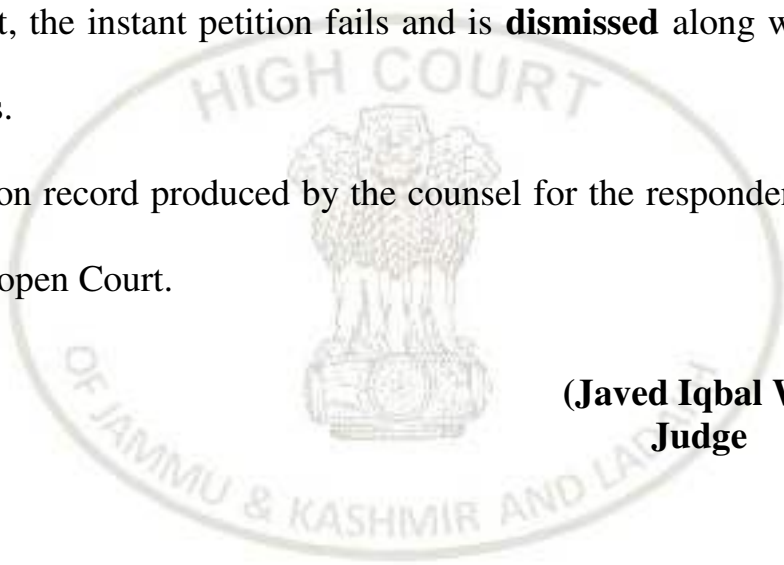
9. Insofar as the aforesaid last ground urged by the counsel for the petitioner is concerned, a closer examination of the entire record available on the file as also the detention record produced by the counsel for the respondents tends to show that the detaining authority has not been oblivious about its statutory duty cast upon it under the Act of 1978, while considering the passing of the detention order against the petitioner but seemingly has been alive to the same and appears to have passed the impugned order validly and legally.

Besides law is settled by the Apex Court in series of judgments including in case titled as *“The State of Bombay Vs. Atma Ram Sridhar Vaidya”* reported in AIR 1951 SC157, wherein it has been authoritatively held that the scope of looking into the matter in which the subjective satisfaction is arrived at by the detaining authority is limited and that the Court while examining the material, which has made basis of subjective satisfaction of the detaining

authority, would not act as a Court of appeal and cannot find fault with the subjective satisfaction arrived at by the detaining authority for detaining a person.

In view of the above, the plea of not awaiting for the result of the application for cancellation of bail filed by the prosecution for cancellation of the bail obtained by the petitioner in FIR No. 207/2024 before passing of impugned order in view of aforesaid analysis,pales into insignificance.

10. Viewed thus, for what has been observed, considered and analysed hereinabove, the impugned order does not call for any interference.
11. In the result, the instant petition fails and is **dismissed** along with connected applications.
12. The detention record produced by the counsel for the respondents is returned back in the open Court.



**(Javed Iqbal Wani)**  
**Judge**

**Jammu**  
13.11.2025  
Diksha

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| Whether the order is reportable: | Yes |
| Whether the order is speaking:   | Yes |